



**The Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Encon Management Incorporated
File: B-233044
Date: December 9, 1988

DIGEST

Protest that evaluation criteria for award of architect-engineer (A-E) contract were not followed because agency should have given primary consideration to a firm's close proximity to project work site is without merit where evaluation criteria ranked location of a firm as fourth in importance and agency evaluated firms consistent with this announced criteria. To the extent that the protest challenges the ranking of the evaluation criteria, it is untimely since the ranking was apparent from the Commerce Business Daily announcement and the protest was filed after the closing date specified for the receipt of the qualification statements of the A-E firms.

DECISION

Encon Management Incorporated protests the Department of the Army's proposed award of contract No. DAHA41-88-C-0025 for project RJVF001497-EE to a firm in Houston, Texas for architect-engineer (A-E) services for the design of a vehicle maintenance shop in Nederland, Texas. Encon protests the proposed award on the grounds that the contract should be awarded to a firm in the same county as the project work site.

A synopsis of this procurement appeared in the June 17, 1988, Commerce Business Daily. The synopsis listed seven selection criteria and stated that these criteria are "in order of importance." Location of the firm was listed as a criterion for selection and was ranked fourth in importance. The synopsis also invited interested firms to submit qualification and performance statements (Standard Forms 254 and 255) by July 26, 1988. Encon did so. On September 28, Encon was informed orally that a Houston firm was being considered for the award. Encon protested this proposed award by letter on September 29.

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Encon contends that the evaluation criteria were not followed by the Army because the agency should have given "top priority to a qualified firm" located in the same county as the project work site. The record shows that Encon received the highest possible score from the agency evaluation board for its location near the project site. However, Encon's scores under the other six factors ranked it, at best, 10th in line for possible award. Encon has not disputed the evaluation under these other factors but merely insists that selection of the successful firm should have been based primarily on the location of the firm. We find that the evaluation was consistent with the stated evaluation criteria which, as Encon knew, ranked location fourth in importance. The protester has not shown otherwise.

To the extent Encon contends that the Army should have given primary consideration to a firm's location under the selection criteria, this ground for protest is clearly untimely under our Bid Protest Regulations, 4 C.F.R. § 21.2(a)(1) (1988). These regulations require that protests based upon alleged improprieties in a solicitation be filed before responses to the solicitation are due. See Charles A. Martin & Assocs., B-222804, Apr. 17, 1986, 86-1 CPD ¶ 382; Face Assocs., Inc., B-211877, Dec. 5, 1983, 83-2 CPD ¶ 643. If Encon had concerns about the propriety of the award selection criteria stated in the synopsis, it should have filed a protest prior to the July 26 closing date for receipt of qualification statements. Since Encon did not submit its protest before this date, it is untimely.

The protest is dismissed.



Ronald Berger
Associate General Counsel